

COMMISSION ON JUDICIAL PERFORMANCE
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FOR RELEASE
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**COMMISSION ON JUDICIAL PERFORMANCE ISSUES DECISION AND ORDER
IMPOSING CENSURE ON JUDGE SCOTT STEINER PURSUANT TO STIPULATION**

The Commission on Judicial Performance has issued a Decision and Order of Censure on Judge Scott Steiner of the Orange County Superior Court pursuant to stipulation. Following a preliminary investigation, Judge Steiner, through his counsel, Paul S. Meyer, and staff counsel for the commission, proposed a Stipulation for Discipline by consent pursuant to Commission Rule 116.5. The Decision and Order Imposing Public Censure is issued pursuant to that Stipulation which was approved by the commission.

The judge has been censured by the commission for his improper conduct in engaging in sexual activity in chambers with women with whom he was engaged in personal relationships, contacting attorneys in the district attorney's office regarding the employment application of a woman with whom he was engaged in a sexual relationship, assigning cases of an attorney with whom he was engaged in a sexual relationship to other judges after disqualifying himself, and failing to disqualify himself in a case involving a longstanding and very close attorney friend.

On multiple occasions, the judge engaged in sexual activity in his chambers with women with whom he was engaged in personal relationships. The commission found that the judge's conduct was contrary to the California Code of Judicial Ethics and constituted, at a minimum, conduct prejudicial to the administration of justice that brings the judiciary into disrepute. The commission stated its view that "engaging in sexual intercourse in the courthouse is the height of irresponsible and improper behavior by a judge. It reflects an utter disrespect for the dignity and decorum of the court, and is seriously at odds with a judge's duty to avoid conduct that tarnishes the esteem of the judicial office in the public's eye. In addition, by engaging in sexual activity in chambers during court hours, the judge risked exposing court employees who might overhear or otherwise become aware of the libidinous conduct to a hostile work environment." The commission noted Judge David M. Rothman's statement in his California Judicial Conduct Handbook, that when a judge's sexual conduct is not conducted in private or "takes place on public property or by use of public resources, the conduct moves from private to public concern and demeans the judicial office under canon 4A(2)." (Rothman, Cal. Judicial Conduct Handbook (3d ed. 2007) § 8.71, p. 439.)

One of the women with whom the judge was engaged in a sexual relationship applied for a position with the Orange County District Attorney's Office, but she was not called back for a further interview. The judge contacted the district attorney's office about the woman's employment application, asked questions about the interview and hiring processes and expressed irritation that his recommendation had not resulted in her hiring, but did not ask that any particular action be taken with respect to the woman's application, such as requesting that it be reconsidered. While canon 2B(2)(e) of the Code of Judicial Ethics permits judges to serve as a reference or provide a letter of

recommendation, the commission found that the judge's conduct exceeded the scope of permitted conduct and violated canon 2B(1), which provides that a judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment, and shall not convey the impression that any individual is in a special position to influence the judge. The commission also found that the conduct also violated canon 2A and constituted conduct prejudicial.

After the judge became involved in a sexual relationship with a woman who was an attorney, he began disqualifying from her cases when she appeared before him. In several instances, the judge disqualified himself from her cases, which had previously been set for trial or hearing, and then assigned those cases to other judges. While a disqualified judge may set proceedings for trial or hearing, the commission noted that this does not mean that a disqualified judge may assign the trial or hearing to a specific judge and found that the judge's conduct violated canons 2A, 3B(2) and 3E(1) and was conduct prejudicial.

With respect to the judge's failure to disqualify himself when an attorney who is a longstanding and very close friend appeared before him, the judge believes that he made an oral disclosure when the attorney appeared, but the judge did not disqualify and the record reflects no disclosure of their relationship. The judge has expressed the view that disclosure, rather than disqualification, may be sufficient, despite the existence of a close, longstanding friendship, where an attorney's appearance is for an uncontested motion or does not involve an issue of substance. The commission noted that unless the proceedings are among those listed in Code of Civil Procedure section 170.4, a judge who has a disqualifying relationship may not preside. Disclosure is not sufficient when disqualification is required under the Code of Civil Procedure.

The commission stated, "The judge's other misconduct involving his contacts with the district attorney's office and his failure to disqualify would alone not warrant a censure in the commission's view. However, consideration of these incidents of misconduct in aggregate with the misconduct related to the judge's sexual activities bolsters the commission's conclusion that censure is the appropriate sanction. (*Fletcher v. Commission on Judicial Performance* (1998) 19 Cal.4th 865, 918 [the number of incidents of misconduct is relevant in determining the appropriate level of discipline].)"

In determining that censure is the appropriate sanction in this matter, the commission stated that it has taken into consideration that the judge has acknowledged wrongdoing and expressed remorse and contrition.

The Decision and Order and Stipulation are available on the commission's website at <http://cjp.ca.gov> (under "Pending Cases - Press Releases & Documents" and "Public Discipline & Decisions 1961 - Present") and at the commission's office.

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The commission is composed of three judges, two lawyers and six public members. The chairperson is Honorable Erica R. Yew of the Santa Clara County Superior Court.

For further information about the Commission on Judicial Performance, see the commission's website at <http://cjp.ca.gov>.